IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17869 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEPUTYEXECUTIVEENGINEER - Petitioner(s)

Versus

BHAGWATSINGHRAMSINGHGOHIL - Respondent(s)

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Appearance :

MR KH BAXI for Petitioner(s) : 1,
MR DS VASAVADA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/10/2005

ORAL JUDGMENT

Rule. Learned advocate Mr.Vasavada waives service of notice of rule on behalf of the respondent.

2. In this petition, the petitioner employer has

challenged the order passed on 21.8.04 by the Labour Court, Bhavnagar by which Misc. Application No.42/01 filed by the petitioner seeking restoration of reference (LCB) No.59/95 was rejected. It is not in dispute that the reference was allowed in favour of the respondent-workman by an ex-parte award dated 1.5.2001.

3. Pursuant to the order dated 2nd September 2005 passed by this Court, respondent-workman has been reinstated in service subject to further orders that may be passed in these proceedings. It is stated that the workman has resumed duty on 1st October, 2005.

4. Considering the above developments and considering the fact that initially the reference was disposed of by an ex-parte award, it is appropriate that the petitioner should have an opportunity to present its case before the Labour Court. For the above purpose, order dated 21.8.04 passed in Misc. Application No.42/01 and the order dated 1.5.01 disposing of reference (LCB) No.59/95 ex parte are set aside. Proceedings are remanded to the Labour Court for fresh consideration on merits. The Labour Court is requested to give priority and endeavour to dispose of the reference as far as possible within a period of six

months from the date of receipt of a copy of this order. Until such time and subject to the final order that may be passed by the Labour Court, the respondent shall continue in service in the same capacity as he was before his termination. It goes without saying that the respondent will be entitled to receive salary at the current standards. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)